

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of,

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.

DRIVETRAIN, LLC, in its capacity as the Trustee of the
Commonwealth Avoidance Actions Trust,
Plaintiff,

v.

BARCLAYS CAPITAL, INC.; BMO CAPITAL MARKETS
GKST INC.; BofA SECURITIES, INC., A/K/A BANC OF
AMERICA SECURITIES LLC, A/K/A BofA MERRILL
LYNCH; CITIBANK N.A., NEW YORK; CITIGROUP
GLOBAL MARKETS INC.; GOLDMAN SACHS & CO.
LLC; GOLDMAN SACHS BANK USA, f/k/a GOLDMAN
SACHS CAPITAL MARKETS, L.P.; GOLDMAN SACHS
MITSUI MARINE DERIVATIVE PRODUCTS, L.P.;
JEFFERIES LLC; J.P. MORGAN SECURITIES LLC;
BANK OF AMERICA CORPORATION; MERRILL
LYNCH CAPITAL SERVICES, INC.; MORGAN
STANLEY & CO. LLC; MORGAN STANLEY CAPITAL
SERVICES LLC, f/k/a MORGAN STANLEY CAPITAL
SERVICES, INC.; RBC CAPITAL MARKETS, LLC;
ROYAL BANK OF CANADA; SAMUEL A. RAMIREZ &
CO., INC.; SANTANDER SECURITIES LLC; UBS AG;
UBS FINANCIAL SERVICES, INC. OF PUERTO RICO;
and JOHN DOES 1-10,

Defendants.

PROMESA
Title III

Case No. 17-BK-3283 (LTS)

(Jointly Administered)

Adv. Proc. No. 19-280 (LTS)

**STIPULATION AND
[PROPOSED] CASE MANAGEMENT ORDER**

Plaintiff Drivetrain, LLC, (the “Trustee”) and Defendants Barclays Capital, Inc.; BMO Capital Markets GKST Inc.; BofA Securities, Inc., a/k/a Banc of America Securities LLC, a/k/a BofA Merrill Lynch; Citigroup Global Markets Inc.; Citibank, N.A., New York; Goldman Sachs & Co. LLC; Goldman Sachs Bank USA; Goldman Sachs Mitsui Marine Derivative Products, L.P.; Jefferies LLC; J.P. Morgan Securities LLC; Bank of America Corporation; Merrill Lynch Capital Services, Inc.; Morgan Stanley & Co. LLC; Morgan Stanley Capital Services, LLC f/k/a Morgan Stanley Capital Services Inc.; RBC Capital Markets, LLC; Royal Bank of Canada; Samuel A. Ramirez & Co., Inc.; Santander Securities LLC; UBS Financial Services, Inc. of Puerto Rico¹; and UBS AG (collectively “Defendants,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, and subject to this Court’s approval and the reservations of rights contained in paragraphs 8 and 10 below, agree and stipulate as follows:

RECITALS

WHEREAS, the Trustee filed the Second Amended Complaint (“SAC”) on September 15, 2022 (ECF No. 49);

WHEREAS, the Court previously ordered the Trustee and Defendants to “meet and confer regarding a schedule for Defendants to answer, move to dismiss, or otherwise respond to any complaint in the Adversary Proceedings” (ECF No. 42);

WHEREAS, the Court further ordered that if the Parties “are unable to reach an agreed schedule, and absent further relief from the Court, Defendants shall answer, move to dismiss, or otherwise respond” to the SAC “no later than” 150 days after the SAC was filed, (ECF No. 42);

¹ Effective July 17, 2021, UBS Financial Services Incorporated of Puerto Rico was merged into UBS Financial Services Inc.

WHEREAS, the undersigned Parties have conferred and agreed to a schedule for Defendants to answer, move to dismiss, or otherwise respond to the SAC and to brief any motion(s) to dismiss; and

WHEREAS, the undersigned Parties have further reached agreement as to (i) page limitations for the motion to dismiss briefing and (ii) the scope of discovery while any motion(s) to dismiss are pending;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED as follows:

BRIEFING SCHEDULE

1. Defendants shall answer, move to dismiss, or otherwise respond to the SAC on or before December 15, 2022.
2. The Trustee shall file any opposition(s) to any motions to dismiss on or before March 15, 2023.
3. Defendants shall file any reply or replies on or before April 19, 2023;
4. Should Defendants move to dismiss the SAC before December 15, 2022, the Parties shall meet and confer in good faith about what changes, if any, should be made to the schedule set forth in this Stipulation. To the extent that the Parties agree to a modified schedule it shall be set forth in an amended Case Management Order to be filed with the Court.

PAGE LIMITS

5. Defendants shall file one consolidated memorandum of law addressing common issues in support of their motion(s) to dismiss and such additional memorandums as may be necessary to address specific issues raised by individual Defendants, subject to a total limit of up to 100 total pages for all their memorandum(s) of law in support of their motion(s) to dismiss the SAC.

6. The Trustee shall be permitted up to 100 pages to file its memorandum(s) of law in opposition to those filed by Defendants.

7. Defendants shall have up to 50 pages for any reply or replies to any opposition(s).

8. For the avoidance of doubt, the Parties expressly reserve their right to seek leave for additional pages for any memoranda of law in support of any motion(s) to dismiss, opposition(s), or for any reply or replies, and the other Parties shall not unreasonably withhold their consent to such requests.

DISCOVERY

9. Discovery shall be stayed as to the Parties pending resolution of any motion(s) to dismiss the SAC. The Parties' discovery stay includes affiliates and former employees of Defendants and any affiliates, in their capacity as such. The Parties may propound and seek discovery from third parties, as permitted by Federal Rule of Civil Procedure 45 (made applicable in this Action by Federal Rule of Bankruptcy Procedure 9016).

10. Except as to the defense of insufficiency of service of process in this Action, no defenses or rights under the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the District of Puerto Rico, or any other laws or regulations, including, without limitation, defenses based upon lack of personal jurisdiction, is in any way prejudiced or waived or curtailed by Defendants' executing, agreeing to, or filing this Stipulation.

11. This Stipulation may be executed in separate counterparts, and counterparts may be executed in facsimile form, each of which shall be deemed an original.

Dated: November 7, 2022

SO ORDERED.

DATED:

Hon. Gail Dein
United States Magistrate Judge

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